THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE S. ANANDA REDDY

Date: 21—09—2005

W.P. No. 1976 of 1995

Between:

M.R.S. Srinivas …Petitioner.

A n d

The Government of A.P. rep. by its Secretary,
Revenue (Asn.III) Department, A.P. Hyderabad
and others.
…Respondents.

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

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W.P. No. 1976 of 1995

O R D E R: (per Sri B. Sudershan Reddy, J)

The petitioner, a practicing advocate of this Court, filed the present writ petition, purporting it to be in public interest, by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India challenging the G.O.Ms.No.1083, Revenue (Asn.III) Department dated 26.10.1994, issued by the 1st respondent whereunder different pieces of lands have been allotted in favour of respondents 2 to 12 on payments of market value, except in case of respondents 4 and 8, who have been allotted land free of cost.

The main contention raised in the affidavit filed in support of the writ petition is that the Government has no power for allotting the Government land in favour of respondents either free of cost or on payment of value as stated in the Government Order. There is no Rule vesting power in the Government to allot the Government land to the public and the only exception is assignment of lands to landless poor persons as prescribed in Board standing orders. It is also contended that the Government did not follow the procedure of giving equal opportunity to every citizen for such allotment of the land, which amounts to denial of equal opportunity and it itself vitiates the entire Government Order. These are the two grounds on which the main Governmental Order is sought to be attacked by the petitioner.

The Government as well as the contesting respondents have filed detailed counter affidavits. In the affidavit filed by the Government it is, *inter alia*, stated that the Government, in exercise of

its powers conferred under A.P. (Telangana Area) Alienation of State Land Revenue Rules, 1975 framed under the A.P. (Telangana Area) Land Revenue Act 1317 Fasli, if desires to sell or otherwise alienate any of its lands or other property in Telangana Area, it may do so after taking the relevant parameters into consideration.

This writ petition, filed on 6th February 1995, came up for consideration before a learned single Judge of this Court on 9th February, 1995 and the learned single Judge, having admitted the writ petition, granted stay of further proceedings pursuant to the impugned G.O. On an application filed by the State and as well as the contesting respondents, the interim orders were vacated on 26.4.1995 in the following manner:

> "It cannot be denied that there had been a Government policy for assignment of plots to deserved persons. Whether such policy is good or bad, reasonable or unreasonable cannot be adjudicated at this stage. The G.O. in question under which allotment of plots was made is not of a new kind. There were such allotments previously, regardless of party wielding power. Suffice it to say that this writ petition was filed belatedly after four months of the passing of the impugned order and meanwhile the amounts which were levied against allottees (excepting two persons to whom the plots were allotted free of cost because of special considerations) were deposited and possession of the plots was handed over to the allottees and their rights have been crystallized and the title of the Government was divested and consequently vested in the allottees even by the time the writ petition was filed.
>
> In the circumstances, I do not see either prima facie case or balance of convenience in favour

> of the petitioner, more so, as this writ petition is probono publico litigation.
>
> Therefore, the interim stay granted on 9.2.1995 is vacated. Liberty to file a petition for expeditious disposal of the writ petition, after all the respondents are served and counters are filed".

That order has attained finality. The matter is listed before us for hearing now, after more than 10½ years, after vacating the interim order.

There is no dispute raised as such by the petitioner that each one of the respondents were put in possession of the respective plots and have even constructed the houses and some of them have even sold the houses after construction for whatever reason. In our considered opinion, it would be a futile exercise to make a detailed enquiry into the nature of allotment of land and the nature of Government's power to make such allotments in the present writ petition, for the reason that the respondents are in enjoyment of the property for a period of about more than 10½ years and that any such adjudication of this writ petition would be an academic one in nature.

It is well settled and needs no restatement that this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, normally does not undertake to adjudicate academic issues.

However, Sri M.V.S. Suresh Kumar, learned counsel for the petitioner, strenuously contended that the Government did not follow any procedure whatsoever in allotting the plots of land to the

respondents and have chosen to voluntarily allot the land even without there being any application by any of the respondents, seeking such allotment. This submission of the learned counsel for the petitioner is not borne out by the averments made in the affidavit filed in support of the writ petition. The complaint in the writ petition is that such allotment would amount to denial of equal opportunity, since each one of the citizens who may be similar to that of the respondents are also entitled to the benefit of such allotment. There is no averment in the affidavit filed in support of the writ petition that the respondents did not even file their respective applications seeking allotment of the land.

No other question as such is raised though an attempt is made by the learned counsel for the petitioner to raise some grounds attacking the impugned G.O., during the course of his submissions. Such a course is impermissible in law in the absence of factual foundation in the pleadings. The question as to whether the Government, at all, is entitled to make such allotment of land as the one on hand, may have to be gone into in an appropriate case as and when such occasion arises. This is not a fit case requiring our interference at this stage i.e. 10½ years after this Court vacated the interim order that had resulted in parting of the possession of the land by the Government in favour of the respondents. The respondents have constructed their respective houses and continue to be in possession and enjoyment of the same. It would be inappropriate to undertake any enquiry/investigation into the validity of the impugned G.O. in the absence of proper pleadings.

For the aforesaid reasons, we are not inclined to interfere with the decision of the Government in the instant case.

The writ petition shall accordingly stand dismissed, without any order as to costs.

B. Sudershan Reddy, J.

S. Ananda Reddy, J.

Date: 21—09—2005.

MVB.